

1 Z. Kathryn Branson  
Nevada State Bar No. 11540  
2 LITTLER MENDELSON, P.C.  
3960 Howard Hughes Parkway  
3 Suite 300  
Las Vegas, Nevada 89169.5937  
4 Telephone: 702.862.8800  
Email: kbranson@littler.com

5 Attorneys for Defendant  
6 WALMART INC.

7  
8 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

9 LEE KIRK,

10 Plaintiff,

11 v.

12 WALMART INC., an Arkansas corporation;  
13 ROE CORPORATIONS 1 to 10,

14 Defendants.

Case No. 2:23-cv-00020-APG-EJY

**[REVISED] STIPULATION AND  
~~PROPOSED~~ ORDER TO EXTEND  
DISCOVERY DEADLINES**

**(FIRST REQUEST)**

15  
16 Pursuant to Local Rule IA 6-1 and Local Rule 26-3, and in accordance with the Court's  
17 Minute Order (**ECF No. 35**), Defendant WALMART INC. ("Defendant") and Plaintiff LEE KIRK  
18 ("Plaintiff") (collectively, the "Parties") stipulate to amend the Discovery Plan and Scheduling  
19 Order (**ECF No. 17**) by extending the outstanding discovery deadlines for a period of thirty (30)  
20 days.

21 This is the first request for an extension to the Discovery Plan and Scheduling Order in this  
22 matter. The requested extension is sought in good faith and not for purposes of undue delay. This  
23 request is submitted at least twenty-one (21) days or more before the expiration of the subject  
24 deadlines.

25 **DISCOVERY COMPLETED**

26 The parties have each exchanged their initial disclosures. Defendant and Plaintiff engaged  
27 in meet and confer efforts concerning Plaintiff's damages calculation. Plaintiff supplemented his  
28 damages calculations as a result of these efforts. Defendant submitted FOIA requests for

4895-0623-0634.1 / 080000-4299

documents related to Plaintiff's EEOC charges of discrimination and has received responses. Defendant has prepared supplemental disclosures and presented Plaintiff with a proposed Stipulated Protective Order before it is able to serve these documents, which protective order is pending Plaintiff's review and approval. Defendant has requested availability of Plaintiff and his counsel for Plaintiff's in-person deposition. Defendant propounded its First Set of Interrogatories and Requests for Production of Documents on June 5, 2023.

### **DISCOVERY REMAINING TO BE COMPLETED**

Plaintiff is serving written discovery. Defendant has prepared third-party subpoenas of Plaintiff's medical providers, pending receipt of Plaintiff's signed HIPAA release through the written discovery processes. Defendant is scheduling Plaintiff's in-person deposition pending receipt of available dates from Plaintiff and his counsel for July because Plaintiff's counsel is in trial throughout June. Plaintiff is issuing notices of deposition for Defendant's witnesses. Defendant is supplementing its initial disclosures as soon as Plaintiff completes his review of the proposed protective order.

### **REASONS FOR REQUESTED EXTENSION**

This extension is necessary to allow the parties ample time to complete all appropriate discovery. Further, in light of delays associated with Plaintiff's counsel's heavy trial schedule between April and continuing through June, re-scheduling of the Early Neutral Evaluation session twice, and Plaintiff's pending Second Motion to Remand, the parties wish to continue working on discovery while awaiting participation in the former and a ruling on the latter.

### **~~PROPOSED~~ REVISED DISCOVERY PLAN**

#### **1. Discovery Cut-Off Date:**

The Parties' current deadline for completing discovery is Wednesday, July 5, 2023. The Parties' request that the Court extend that deadline to **Friday, August 4, 2023**.

#### **2. Dispositive Motions:**

The Parties' current deadline to file dispositive is Friday, August 4, 2023. The Parties' request that the Court extend that deadline to **Tuesday, September 5, 2023. [Deadline lands on a Sunday, next Monday is a holiday, moved to Tuesday]**.

4895-0623-0634.1 / 080000-4299

1           **3.        Pretrial Order:**

2           The Parties current deadline for filing the Joint Pretrial Order is Tuesday, September 5,  
3           2023. The Parties' request that the Court extend that deadline to **Thursday, October 5, 2023**. In  
4           the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended  
5           until thirty (30) days after the Court enters a ruling on the dispositive motions or otherwise by  
6           further order of the Court.

7           **4.        Extensions or Modifications of the Discovery Plan and Scheduling Order:**

8           In accordance with Local Rule 26-3, a stipulation or motion for modification or extension  
9           of this discovery plan and scheduling order must be made no later than twenty (21) days before the  
10          expiration of the subject deadline.

11          The Parties make this stipulation in good faith and not for the purposes of undue burden or  
12          delay.

13          Dated: June 15, 2023

14  
15          /s/ Johnathan D. Roven, Esq.

16          JONATHAN D. ROVEN, ESQ.

17          Attorneys for Plaintiff  
18          LEE KIRK

15          /s/ Z. Kathryn Branson, Esq.

16          Z. KATHRYN BRANSON, ESQ.  
17          LITTLER MENDELSON, P.C.

18          Attorneys for Defendant  
19          WALMART INC.

20                                   **IT IS SO ORDERED.**

21                                   Dated: June 15, 2023.

22  
23                                     
24                                   UNITED STATES MAGISTRATE JUDGE  
25  
26  
27  
28

4895-0623-0634.1 / 080000-4299